

DETAILED ACTION

Response to Amendment

1. Applicant's amendment, filed on October 13, 2008 has been considered and entered in full.
2. Applicant's amendments to the claims have been considered and are persuasive; therefore all the rejections on the respective claims have been withdrawn.

Examiner's Amendment

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with applicant's attorney/agent of record, Mr. Jeffrey Zahn, Registration No. 54,864, on 03/02/2009, Examiner's amendment:

In The Claims

- (a) The following changes to the claims have been approved by the examiner and agreed upon by applicant:

(i) Claim 15 as presented depends on the cancelled claim 14.

Examiner's amendment: Change the claim 15 dependency to claim 1 such that claim 15 depends on claim 1.

(ii) Claim 16 as presented depends on the cancelled claim 14.

Examiner's amendment: Change the claim 16 dependency to claim 1 such that claim 16 depends on claim 1.

Allowable Subject Matter

Reasons of Allowance:

4. Claims 1-7, 9, 11-13, 15-16, 18-21 and 26-31 (renumbered as 1-23) are allowed.

The following is an examiner's statement of reasons of allowance:

The reasons of allowance for claims 1, 26 and 29 should be evident from the applicant's amendments to the claims and arguments as filed in the amendment filed on 10/31/2008 and from the previous office action mailed on 08/11/2008. In the previous office action mailed on 08/11/2008, claims 17 and 18 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and the amendment to the claims as filed on 10/31/2008 provides such an amendment. Further adding, claims 1-7, 9, 11-13, 15-16, 18-21 as presented are drawn to the method for automatically determining a foreground color for a digital image, and the terms "automatically" and "digital" points to the method that is positively tied to a statutory category in an inherently manner. Therefore claims 1, 26 and 29 are allowed. All other claims depending on claims 1, 26 and 29 are allowable at least by dependency on claims 1, 26 and 29.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee.

Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manav Seth whose telephone number is (571) 272-7456. The examiner can normally be reached on Monday to Friday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Bella, can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Manav Seth/
Examiner, Art Unit 2624
March 1, 2009

/Matthew C Bella/
Supervisory Patent Examiner, Art Unit
2624